

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SHAMORIAN JENKINS,

Plaintiff,

v.

PROCOLLECT, INC.,

Defendant.

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No. 3:14-cv-2460

PLAINTIFF’S COMPLAINT

SHAMORIAN JENKINS (“Plaintiff”), through her attorneys, KROHN & MOSS, LTD., alleges the following against PROCOLLECT, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).

2. Count II of Plaintiff’s Complaint is based on Texas Statute, Finance Code, § 392.302 *et seq.* (“Texas Finance Code”).

3. Count III of Plaintiff’s Complaint alleges that Defendant negligently, knowingly and/or willfully violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”).

JURISDICTION and VENUE

4. Jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

5. Defendant conducts business and is located in the State of Texas thereby establishing personal jurisdiction.

6. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

7. Plaintiff is a natural person residing in Dallas, Dallas County, Texas.

8. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3) and Texas Finance Code § 392.001(1).

9. Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5) and Texas Finance Code § 392.001(2).

10. Defendant is a business entity with an office located at 12170 Abrams Rd., Suite 100, Dallas, Texas 75243.

11. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6) and Texas Finance Code § 392.001(6).

12. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

13. Prior to the filing of this Complaint, a third party placed an account with Defendant to collect monies from Plaintiff which were alleged to be owed and past due (“debt”).

14. Defendant is attempting to collect approximately \$700 from Plaintiff, claiming it is related to Plaintiff’s “move out” of her former apartment complex, a personal residence.

15. In its attempts to collect the alleged debt, Defendant places telephone calls to Plaintiff (“collection calls”) at telephone number (214) 774-76xx, which is Plaintiff’s cellular telephone.

16. Plaintiff started receiving Defendant's collection calls in or around March, 2014.

17. Plaintiff never gave Defendant her permission to call her cellular telephone.

18. All of Defendant's collection calls to Plaintiff are placed using an automatic telephone dialing system or other equipment capable of storing and producing telephone numbers at random or sequential periods to be dialed ("auto dialer").

19. Shortly after the collection calls began, Plaintiff instructed Defendant that she did not owe the amount that Defendant was attempting to collect and to stop calling her.

20. Defendant told Plaintiff that if she didn't pay the amount it sought, Defendant would "take your [Plaintiff's] personal property to satisfy" the debt.

21. Defendant repeatedly told Plaintiff during its collection attempts that it would "take" her personal property.

22. Defendant did not have the authority or the intention to "take" any property of Plaintiff when it made the aforementioned statement.

23. Defendant made the aforementioned statement either to trick or scare Plaintiff into making a payment directly to Defendant.

24. Defendant continued to call Plaintiff three (3) to four (4) times per week to collect approximately \$700 from Plaintiff despite the fact Plaintiff informed Defendant that she disputed that amount.

25. Plaintiff feels harassed by Defendant's continued collection calls to her cellular telephone.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

26. Defendant violated the FDCPA based on the following:
- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress or abuse Plaintiff in connection with the collection of a debt;
 - b. Defendant violated §1692e(2)(A) of the FDCPA by falsely representing the character, amount, and/or legal status of any debt;
 - c. Defendant violated §1692e(4) of the FDCPA by representing or implying that nonpayment would result in seizure, attachment, or sale of Plaintiff's property when such action was not lawful and/or intended.
 - d. Defendant violated §1692e(10) of the FDCPA by using false representations and/or deceptive means in an attempt to collect the alleged debt.
 - e. Defendant violated §1692g(b) of the FDCPA by continuing to collect a portion of the alleged debt which was disputed by Plaintiff.

WHEREFORE, Plaintiff, SHAMORIAN JENKINS, respectfully requests judgment be entered against Defendant, PROCOLLECT, INC., for the following:

27. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k,
28. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k
29. Any other relief that this Honorable Court deems appropriate.

**COUNT II:
DEFENDANT VIOLATED
THE TEXAS FINANCE CODE**

30. Plaintiff repeats and re-alleges all of the above allegations herein.
31. Defendant violated Texas Finance Code based on, but not limited to, the following:
- a. Defendant violated § 392.301(a)(7) of the Finance code by threatening that that nonpayment of the debt will result in the seizure, repossession, or sale of the Plaintiff's property without proper court proceeding;
 - b. Defendant violated § 392.302(4) of the Finance code causing a telephone to ring repeatedly or continuously, or making repeated or continuous telephone calls, with the intent to harass Plaintiff;
 - c. Defendant violated § 392.304(a)(19) of the Finance code by using false representations and/or deceptive means to collect the alleged debt.

WHEREFORE, Plaintiff, SHAMORIAN JENKINS, respectfully requests judgment be entered against Defendant, PROCOLLECT, INC., for the following:

32. Injunctive relief pursuant to Texas Finance Code § 392.403(a)(1), to prevent Defendant from further violating the Texas Finance Code;
33. Costs and reasonable attorneys' fees pursuant to Texas Finance Code § 392.403(b);
- and
34. Any other relief that this Court deems appropriate.

**COUNT III:
DEFENDANT VIOLATED
THE TELEPHONE CONSUMER PROTECTION ACT**

35. Plaintiff repeats and re-alleges all of the above allegations herein.
36. Defendant's actions alleged *supra* constitute numerous negligent violations of the

TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

37. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff, SHAMORIAN JENKINS, respectfully requests judgment be entered against Defendant, PROCOLLECT, INC., for the following:

38. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

39. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

40. All court costs, witness fees and other fees incurred; and

41. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

Dated: July 8, 2014

By: /s/Ryan Lee

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